

MAR 13 2014

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

CLERK'S OFFICE  
DETROIT

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
ANTHONY CLARK,  
Defendant.

Case No. 06-cr-20465-37  
Hon. Nancy G. Edmunds

OBJECTION TO FAILURE TO FILE OBJECTIONS  
TO PRESENTENCE REPORT, AND REQUEST FOR  
RELIEF, OR TELEPHONIC HEARING  
APPOINT NEW COUNSEL

"RELIEF REQUESTED"

Now comes Anthony Clark, appearing pro se on this motion, and OBJECTS to his counsel's failure to forward his objections and corrections to the PSR to the U.S. Probation Office, and seeks relief or a hearing to discuss relief.

BACKGROUND

Anthony Clark is on remand for resentencing, from the Sixth Circuit Court of Appeals. He has been appointed counsel.

Pursuant to the Fed. R. Crim. Proc. 32, a Presentence Report was also revised for Clark's resentencing.

Because the new presentence report is now inaccurate in a myriad of ways, Clark is attempting to be diligent in correcting

and supplementing it.

Despite close contact with his counsel, Clark did not receive the PSR until the 15th day AFTER it was given to counsel, harming Clark's effort to correct it. When he did get it, he got it by email, through his prison case manager.

Clark prepared a set of objections/corrections for counsel shortly after getting the PSR. Those objections and corrections included:

1. Corrections about Clark's post-sentencing conduct (citing Pepper v. United States, 179 LE2d 196 (2011)).
2. Corrections and clarifications about effects the post-sentencing exceptional circumstances had on Clark's family. ("any injury suffered or any danger or risk of injury to the defendant or his family"); also USSG 5H1.6 Family factors).
3. Challenges and corrections to some of the government's "facts".
4. Extraordinary circumstances that have not yet, and should be, raised to the court.
5. Other relevant and germane information that will be useful in determining a just sentence (Title 18 U.S.C. §§'s 3552, 3553 et seq.).

These objections and corrections were given to counsel; counsel then missed the opportunity and duty to give them to the Presentence Investigator, so that the PSR has been effectively "unobjected" to - and it should have been objected to.

#### THE OBJECTION

Law and statutes direct that a presentence report be prepared and considered, and that a defendant be given a fair opportunity to review the PSR for mistakes and corrections, see Title 18 U.S.C. § 3552, and Fed. R. Crim. Proc. 32.

The Presentence Report is the most important document at sentencing (see Johnson v. United States, 2013 US Dist LEXIS 180107 (MD FL)("...a very important document..."); accord United States v. Belgard, 694 F. Supp. 1488 (D )R, 1988)(the presentence investigator must be extra-careful in inserting accurate information); United States v. De La Rosa, 2005 US Dist LEXIS 926 (SD NY)(the PSR is "an important document that accompanies an incarcerated person throughout their term of incarceration" at the BOP)).

Becuase the matters were not presented to the presentence report author, it will be awkward at best to raise them in court at sentencing, and more likely procedurally barred or defaulted at that time.

Further, Clark believes that it would prejudice his position to be "writtend" back to Detroit at this time, so that he is of the position that the matter should be handled before he is returned to Detroit.

#### PRAYER FOR RELIEF

Anthony Clark thus prays that this Court will grant the following relief:

1. Appoint new counsel for him; and
2. Reset the timing for the Presentence Report, and allow Clark to make objections and suggest corrections; and
3. Allow these things to be done before Clark is moved back to Detroit for resentencing; or, in the alternative;
4. Schedule and conduct a hearing where Clark can appear by telephone, or video (both of which are available at Clark's place of confinement) in order to determine what additional or substitute relief is available; and
5. Any other relief, just and proper.

#### CERTIFICATION

"I certify that the foregoing is true and complete to my best knowledge, information, and belief. Executed on \_\_\_\_\_".

Signed,

\_\_\_\_\_  
/s Anthony Clark

CERTIFICATE OF SERVICE

"I certify that I have served a copy of the foregoing instrument on:

TO: 1) AUSA Chris Graveline, 211 W. Fort St. Ste. 2001 Detroit, MI 48226-3211  
2) CLERK of COURT, 211 W. FORT ST. DETROIT, MI 48226

by placing a copy in the US Mail on 3-10-14 ".

Signed,

ADW  
/s Anthony Clark



U.S. MAIL

*Le Gall MAIL*

43504-039  
Theodore Levin Us Courthouse  
231 W Lafayette BLVD  
5th Floor  
Detroit, MI 48226  
United States

NAME: *Anthony Clark*  
REG.# *43504039*  
Federal Correctional Institution Elkon  
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U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D.C. 20535  
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